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President:	Mr. Sangqu	(South Africa)
Members:	Azerbaijan	Mr. Mehdiyev
	China	Ms. Guo Xiaomei
	Colombia	Mr. Quintana
	France	Mrs. Le Fraper du Hellen
	Germany	Mr. Huth
	Guatemala	Mr. Briz Gutiérrez
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	Morocco	Mr. Chekkori
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	Portugal	Mr. Madureira
	Russian Federation	Ms. Taratukhina
	Togo	Mrs. Balli
	United Kingdom of Great Britain and Northern Ireland	Mr. Wilson
	United States of America	Mr. Simonoff

Agenda

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634)

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The meeting resumed at 3.10 p.m.

The President: Under rule 37 of the Council's provisional rules of procedure, I invite the representative of the Philippines to participate in this meeting.

I wish to remind all speakers to limit their statements to no more than four minutes in order to enable the Council to carry out its work expeditiously.

I now give the floor to His Excellency Mr. Thomas Mayr-Harting, Head of the Delegation of the European Union to the United Nations.

Mr. Mayr-Harting: I have the honour to speak on behalf of the European Union (EU) and its member States. The European Union and its member States very much welcome the opportunity to continue the discussion on this important topic here in the format of an open debate.

The acceding country Croatia; the candidate countries the former Yugoslav Republic of Macedonia, Montenegro and Iceland; the countries of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina; as well as Ukraine and the Republic of Moldova align themselves with this statement.

The rule of law has become a topic of discussion in all relevant organs of the United Nations and is a part of all United Nations activities. The rule of law is a core principle for the internal legal and political order of the European Union and for its external policy. The importance of the rule of law in relation to the work of the Security Council is no longer questioned. Rule of law components are regularly incorporated into the Council's work in various situation-specific contexts. In the interest of a more coherent and systematic approach, thematic debates such as these are important.

We are deeply committed to upholding and developing an international order based on the rule of law, where international law, including human rights law, humanitarian law and refugee law, is fully respected and implemented. International law and the rule of law are the foundations of the international system, with the United Nations at its core. We therefore remain staunch supporters of the activities of the Organization in this field.

We take note of the Secretary-General's recent report (S/2011/634*) and of the progress made in implementing the Secretary-General's recommendations made in his 2004 report (S/2004/616). With regard to conflict and post-conflict situations, we believe that the promotion of the rule of law is also essential. Ensuring the rule of law before, during and after open conflicts, and in peacekeeping operations themselves, is the most tangible way to shoulder the Council's responsibility in upholding international standards. That is a task that requires presence and resources over time.

In that regard, we support the recommendations set out in the Secretary-General's latest report. In particular, we fully support the idea of enhancing our existing dialogue and cooperation. We encourage the Secretary-General to pursue his efforts aimed at approaching rule of law initiatives in a comprehensive and multidimensional manner, recognizing the importance of the economic and social rights dimensions of conflict to ensuring long-term peace and security.

The European Union and its member States support the forthcoming convening of the high-level meeting of the General Assembly on the rule of law, to be held at the beginning of its sixty-seventh session, and looks forward to participating in that debate.

The rule of law is of critical importance for the European Union's external policy. Respect for justice and the rule of law is an essential condition for peace and stability in the consolidation and support of democracy and in the fight against impunity. For the EU and its member States, respect for the rule of law is essential to conflict prevention, conflict resolution and post-conflict reconstruction. It is inextricably linked to the protection of human rights and fundamental freedoms, and needs to be pursued at both the national and international levels. We therefore strongly support the role of the International Court of Justice as the principal judicial organ of the United Nations, and call on all States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.

Furthermore, the European Union is a staunch supporter of the International Criminal Court (ICC). By referring the situations in Darfur and Libya to the ICC, in resolutions 1593 (2005) and 1970 (2011), the Security Council took decisive action in combating impunity, furthering the rule of law and bringing justice to the victims. The EU and its member States call on all States Members of the United Nations that

are not yet parties to the Rome Statute to ratify or accede to it, call on all States parties that have not yet done so to implement the Statute in their national legal orders, and call on all States to cooperate fully with the Court by enforcing its decisions, including through relevant Security Council resolutions. The Rome Statute serves as a prime example of the interplay between international and national efforts in the area of rule of law. The ICC is complementary to national jurisdictions and is an important catalyst for the development of domestic systems of justice. Security Council support for national capacity-building for justice is an important investment in peace and security.

Special attention should be paid to giving women, children and other vulnerable groups greater access to justice. Specialized courts, for example family courts or mobile courts, are tools to help to bring justice closer to women and children.

With regard to the Secretary-General's initiatives to support the creation of national judicial capacities to prosecute perpetrators of serious international crimes, we would like to make reference to the European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes, which was set up in 2002.

With regard to conflict and post-conflict situations, we emphasize the need to bring about greater quality, coordination and coherence in the engagement of the United Nations and its Members. The United Nations should devote special attention to the strengthening of mediation activities; such activities should duly factor in justice issues, including the prosecution of the perpetrators of atrocities, and reject amnesties and immunities for the most egregious crimes. We also encourage the Secretary-General to proceed in ensuring that the United Nations responds to requests for assistance in constitution-making and legislative reform processes.

Finally, through the Instrument for Stability, developed in large part by supporting initiatives of United Nations agencies, the European Union provides assistance in the field of the rule of law to countries going through or emerging from a crisis. Timely support has been provided to support constitutional processes in countries emerging from political turmoil and moving towards re-establishing national unity and a democratic future. Support has also been provided to legislative processes key to the implementation of new Constitutions, for example, in Bolivia, Zimbabwe and Kyrgyzstan. Also, many of the civilian crisis management operations carried out by the European Union in the context of its Common Security and Defence Policy focus on the rule of law.

The most prominent example is the EU's Rule of Law Mission in Kosovo under the general framework of resolution 1244 (1999). More than 2,000 EU civilian experts are assisting the Kosovo authorities, in particular in the police, judiciary, customs and correctional services, in all areas related to the rule of law, in order to ensure the adoption of best practices. Through the EU Integrated Rule of Law Mission for Iraq, the European Union also contributes to the establishment of a professional Iraqi criminal justice system.

The President: I now give the floor to the representative of Estonia.

Ms. Intelmann (Estonia): First of all, let me congratulate South Africa upon its assumption of the presidency this month and thank it for organizing today's debate.

Estonia aligns itself with the statement made by the observer of the European Union (EU).

We welcome the increased focus that the United Nations is placing on the rule of law and justice through discussions here in the Security Council, in the General Assembly and through the concrete activities that the United Nations system is undertaking. In the light of recent profound political changes in many parts of the world, and of new threats to international peace, it is even more important that the rule of law remain on the agenda of the United Nations.

My statement today is mainly about the International Criminal Court (ICC). The relationship between the Court and the United Nations is of crucial importance in many ways. The year 2012 marks the tenth anniversary of the Court. By now, the institution has an established reputation and a respected role in the international arena. In 1998, States agreed to create a permanent International Criminal Court as the court of last resort to end impunity for the most heinous international crimes. They also agreed to assume, on a national basis, primary responsibility for bringing perpetrators of such crimes to justice. At present, 120 States are parties to the Rome Statute. The

campaign for the universality of the Statute is ongoing; it is supported by the States parties, regional actors and the United Nations.

As efforts towards achieving the universal ratification of the Rome Statute continue, the need to work on strengthening national jurisdictions to be able to prosecute crimes under the Rome Statute is becoming more and more acute. The Court and States parties are carrying out important activities in support of countries in need. It is clear, however, that, if we want to succeed, the ability to prosecute international crimes must become an integral part of the broader rule of law activities of all major development actors. The United Nations system is well placed to play a major role in that endeavour. Our joint efforts to provide assistance for developing national capacities to cope with crimes under the Rome Statute would strengthen national justice systems as a whole. I am very glad to say that there is an ongoing dialogue between the Court, the Assembly of States Parties and the United Nations concerning that issue. While combating impunity, the ultimate goal is preventing the commission of crimes in the first place.

The ability of the Court to fulfil its functions also depends on the ability and resolve of States parties and other States to offer their cooperation. There are still a number of outstanding arrest warrants. States parties are constantly working through their Bureau and their President to ensure full cooperation with the Court, especially in the crucial area of the execution of arrest warrants. The Security Council has referred two cases to the ICC, and in these cases, too, arrest warrants are outstanding. Recently, two findings of non-cooperation were referred to the Security Council by the Court. Continuing international focus on cooperation with the International Criminal Court and international tribunals is of the utmost importance if the quest to end impunity is to be credible and successful.

The face of those suffering from atrocious international crimes is very often that of the most vulnerable — women and children. Addressing the plight of victims through broader community programmes, including education, is one of the activities the Court has undertaken. These activities, funded by voluntary contributions, target affected communities and help in healing, while making a contribution to a deeper change in society by helping them regain their dignity and rebuild their communities. Here again, interaction with the United Nations system is of great value.

Resolution 1325 (2000) and other Council resolutions on women, peace and security and on children in armed conflict should remain high on the agenda of the United Nations. We are concerned by continued reporting about mass rapes as a method of war and the very low numbers of perpetrators who have been brought to justice. The only way to remedy this situation is to ensure that all national jurisdictions are able to investigate and prosecute the worst crimes under international law.

Considering that the Council has recognized that conflict-related sexual violence is a legitimate threat to international peace and security, we hope that it will remain actively engaged with the matter. It is important to maintain focus on gender equality and the empowerment of women in broader rule of law activities. I hope that the high-level meeting on the rule of law to be held by the General Assembly in September will provide new impetus to these discussions.

In conclusion, I would like to say that Estonia is firmly committed to the international order based on international law, including human rights law and the rule of law. Estonia has become an international donor and the rule of law enjoys a prominent place in our development cooperation strategy. Estonia has created a stable and fruitful basis for cooperation with many of our partner counties by sharing our recent experience of social, political and economical reforms. That is why we support and highly value EU cooperation in the field of rule of law with its eastern neighbours in the framework of the Eastern Partnership. We are also actively involved in several EU civilian crisis-management operations with a focus on the rule of law.

The President: I now give the floor to the representative of Finland.

Mr. Viinanen (Finland): I thank you, Sir, for having organized this debate. I congratulate the Secretary-General on the excellent report we have before us today (S/2011/634*). We support the full implementation of the recommendations contained therein.

Finland aligns itself with the statement of the European Union. In addition, I will make some remarks on two interrelated issues: first, rule of law

and transitional justice in peace processes, mediation and peace agreements; and secondly, access to justice for women, children and vulnerable groups.

The rule of law in the context of peace and security has been debated by the Council for almost a decade, and a common understanding has emerged about the centrality of justice and the rule of law to the prevention of conflicts and the sustainability of peace agreements. When bringing warring parties to a negotiating table, a particular challenge is to address the simultaneous requirements of stability and justice in a balanced way.

In his report, the Secretary-General confirms that the United Nations policy to reject any endorsement of amnesty for genocide, war crimes, crimes against humanity or gross violations of human rights is increasingly reflected in peace agreements, ceasefires and other arrangements. Blanket amnesties are considerably less common today than they were 10 years ago. Despite this positive development, we agree with the Secretary-General's conclusion that a lot remains to be done, as the incorporation of justice and accountability measures into peace agreements remains uneven. This is an area where we stand ready to work together with the United Nations, the Council and all Member States to further enhance the quality of mediation, the resulting peace agreements and their implementation.

Human rights violations and the need for justice cannot be overlooked in the name of stability. Peace can be sustainable only if it goes hand in hand with justice and respect for human rights. There should be a multifaceted and properly sequenced transitional justice strategy to address the legacy of violations of human rights and international law, including prosecutions, truth-seeking, reparations and institutional reform. The World Bank's *World Development Report 2011* demonstrates that providing improved security, justice and jobs is a precondition for a successful transition to stability. If one of these elements is missing, transitions are less likely to succeed.

It is important to ensure that the rule of law is fully taken into account in all reform and reconstruction efforts undertaken in conflict and post-conflict situations. In so doing, priority should be given to access to justice for those who often suffer disproportionately in conflict and whose voices are unfortunately still the weakest in peace negotiations and post-conflict processes: women, children and marginalized groups.

The Secretary-General recommends a United Nations policy to ensure the full inclusion of marginalized populations. Good progress is being made by United Nations actors in advancing women's access to justice in post-conflict situations. I would like to commend the work of the Special Representative of the Secretary-General on Sexual Violence in Conflict in this regard.

Children need our attention. The Secretary-General in his report recommends the development of common minimum standards on children and transitional justice. Finland fully supports that call. Another area where Finland would like to see progress made is reparations for victims of conflict and of serious violations. We believe that innovative measures, such as collective reparations or measures that create economic and employment opportunities, could greatly contribute not only to justice being done but also to the broader goal of peacebuilding.

Although I have not mentioned many pertinent issues — such as the role of the International Court of Justice, the importance of the International Criminal Court and support for the implementation of the principle of complementarity to its fullest extent, or due process considerations of sanctions regimes — our support for all the essential building blocks of the rule of law both at the international and national level is unwavering. I thank you, Sir, for the opportunity to address the Council and stand ready to work with the Council and the whole United Nations membership in advancing the rule of law.

The President: I now give the floor to the representative of Switzerland.

Mr. Seger (Switzerland) (*spoke in French*): I would like to thank South Africa for having organized this debate. I would also like to state that Switzerland associates itself with the statement to be made by the representative of Austria on behalf of the Human Security Network. In our national capacity, however, we would like to bring the following three points to the attention of the Council.

There is a great deal to say on this issue, in particular on the critical role of the International Court of Justice in maintaining a world order based on law,

but given the limited time available, we should like to draw the Security Council's attention to three points that we believe to be of particular relevance.

First, we welcome the October 2011 report of the Secretary-General on the rule of law and transitional justice (S/2011/634*). The report rightly stresses the need for a holistic approach to conflict and post-conflict situations. The principles on combating impunity that were formulated by the Sub-Commission on the Promotion and Protection of Human Rights between 1994 and 2005 are the cornerstone of such an approach. Those principles state that dealing with the past in an effective and lasting way must include processes of truth-telling, justice, reparations to victims and institutional reforms, aimed at ensuring that past abuses do not recur. More needs to be done so that a coherent approach is pursued systematically across United Nations activities and is felt in the field.

In that context, we believe that it is particularly important to draw the attention of the Security Council to the new mandate of the Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence, established by the Human Rights Council by consensus in September 2011. That new special procedure was put in place to contribute to the fight against impunity, to enable States to better fulfil their obligations and to give a voice to victims and ensure that their rights are respected. We call on the Security Council to actively consider the work of the Special Rapporteur, and we hope that the Rapporteur will receive the full support of the Council.

Secondly, we wish to draw the attention of the Security Council to the conclusions of the World Bank's *World Development Report 2011* on conflicts, security and development. In our view, the report highlights several crucial aspects that must be part of discussions on justice and the rule of law. In particular, it points to the links between conflict, impunity and the weakening of Government structures, while also emphasizing the clear links between the economy, development and the rule of law.

The report also states that justice and the rule of law are essential in the prevention of conflicts and the consolidation of peace. An investment by the Security Council in the rule of law is therefore not only a good investment in the maintenance of peace, it is also a good investment in development.

We recommend that the conclusions of the report be carefully considered by the Council. Much remains to be learned about exactly how the rule of law can and must be strengthened in post-conflict situations. By systematically including the strengthening of justice and the rule of law in its mission objectives, the Security Council could itself help to move this issue forward by insisting on regular evaluations of the progress achieved. I would cite the recent positive example of resolution 2027 (2011), on Burundi, in which this approach was highlighted.

Thirdly, the Secretary-General's report calls on the United Nations to make its measures more predictable, effective and transparent. Recourse to international legal mechanisms should not be exempted from those requirements. That is why we believe that the Security Council should develop a predictable and coherent approach with regard to the situations that it refers to the Prosecutor of the International Criminal Court (ICC), while supporting past decisions.

The ICC is a court of law; as the Court is a judicial body, the principles of equality and of objectivity play an even more important role than elsewhere. The implications for the action of the Security Council are basically twofold. First, if the Security Council refers a case to the Court in a given situation, it must also do so when dealing with other comparable cases. Secondly, once it has referred a case, it must continue to give its full support, including its financial support, to the work of the Court, while respecting its independence and its decision-making autonomy.

Mr. President: I now give the floor to the representative of Chile.

Mr. Errázuriz (Chile) (*spoke in Spanish*): Chile would like to thank South Africa for convening this open debate. We also thank the Secretary-General for his comprehensive report (S/2011/634*) and for his statement this morning. Of course, the Security Council, as the body responsible for international peace and security, plays an important role in promoting human rights.

My delegation associates itself with the statement delivered by the representative of Austria on behalf of the Human Security Network.

I would like to recall that heads of State and Government met here in New York in 2005 and

adopted the World Summit Outcome (General Assembly resolution 60/1), in which they expressed their commitment to promote the protection and promotion of human rights, the rule of law and democracy. They also highlighted the close link between those concepts and how they are mutually reinforcing: the rule of law must operate both in international relations and within States. Respect for it at the international level is an essential element for the peace and stability of nations and for democratic governance and development.

As the Secretary-General expressed so well in his report to the General Assembly, respect for the rule of law at the international level is at the very foundation of the Charter of the United Nations. In their mutual relations, all States must respect legal norms that are binding upon them, submit their disputes to agreed methods for peaceful settlement and respect the sovereign and legal equality of States. Those are what is meant by the rule of law at the international level.

Chile accords the utmost importance to promoting respect for the rule of law and believes it is crucial to strengthen it. As a country that respects international law, we recognize and support the principles of the Charter as essential values for any modern society. Of course, those and other elements, such as respect for international treaties, contribute to harmonious development and peaceful coexistence between nations.

At the same time, the rule of law must be respected within States. Respect for it is a necessary precondition for domestic peace, which is linked to international peace. The proper functioning of national institutions and bodies allows for the normal development of the rule of law. Unless there is respect for those institutions and organizations, a State cannot develop its activities properly. In legal terms, that means full respect for human rights and the existence of an independent legal system that acts in a legitimate way. It also means that anybody who commits a crime must answer for his conduct before legal bodies, no matter what post he occupies, and the law must be equally applied to all.

Clearly, the primary role in the observance and respect for the rule of law belongs to States and their institutions, which have the main responsibility of ensuring that the rule of law is fully implemented. Nevertheless, the international community, and especially the United Nations through its main organs — the General Assembly, the Security Council and the International Court of Justice — must also watch over and encourage respect for the rule of law.

Respect for the rule of law allows us to prevent the outbreak of internal conflicts. In that regard, the international community, and the United Nations in particular, must establish mechanisms that allow us to avoid the outbreak of internal conflicts. In that connection, there is a great window of opportunity for preventive action, which can avoid many conflicts. In cases where conflicts cannot be avoided, the post-conflict period must be managed in a way to overcome those obstacles to Governments implementing efforts to attain national institutional reconstruction.

As crucial pillars of the rule of law, executive, legislative and judicial bodies must quickly be rebuilt in order to ensure the proper stability for the reorganization of society. In such cases, there must be close collaboration between Governments and the international community, in particular the United Nations, which must continue to work to achieve those goals. Post-conflict peacebuilding must therefore take into account issues related to the rule of law and to human rights.

The role of truth commissions with regard to respect for the rule of law should not be left outside those peacebuilding processes. They have played a very important role in various countries. While respecting the particular character of each country, it is important that truth commissions be considered as a factor to favour peace and reconciliation.

In those processes, there must be compatibility between justice and peace, without in any way sacrificing any of those values. Internal peace cannot be achieved without justice, and justice must be exercised while taking into account that the goal is to achieve peace. To that end, the aim should be a fully legitimate justice system with the authority to impose its decisions. Similarly, domestic justice systems should abide strictly by international laws and standards, including respect for due process for all, especially the most vulnerable sectors of society. In that connection, peacekeeping operations must not fail to take into account elements that promote appropriate justice.

The establishment of the International Criminal Court represents an important element in terms of enhancing the rule of law. The Court is called upon to

act in cases where States in which crimes under its jurisdiction have been committed are not in a position, or are unwilling, to undertake legal proceedings. International ad hoc criminal tribunals have fulfilled the same function.

In conclusion, we would like to observe that, while it is up to each State to implement the terms of the Secretary-General's report — in other words, to build a just, safe and peaceful world governed by the rule of law — it is also up to the international community as a whole. We agree with the Secretary-General on the need to reflect on ways in which the international community can better carry out and coordinate its initiatives to strengthen the rule of law. For that reason we support the convening of the high-level meeting that will be held on 24 September during the next session of the General Assembly as an example of a contribution on this theme.

The President: I now give the floor to the representative of Australia.

Mr. White (Australia): I thank you, Mr. President, for convening this important debate. Australia also wishes to express its thanks to the Secretary-General for his thorough report (S/2011/634*) and presentation this morning. We also look forward to participating actively in the high-level meeting on the rule of law in September.

Australia supports the Council's increased role in promoting the rule of law, which is essential to building confidence in institutions of governance and to underpinning economic and social development. Support to justice and security institutions and to ending impunity is central to the peacebuilding task of the United Nations and to reducing the risk of relapse into conflict.

Over the lifetime of the United Nations, our collective understanding of the rule of law, including criminal accountability for serious crimes, has deepened. We have come to understand the challenges and risks that rule of law deficits pose to international peace and security. We now know that complex situations in which a rule of law deficit exists require multidimensional, well-coordinated and specifically tailored responses. Those responses take time. They require long-term commitment to establish the foundations for peace and for legitimate governance.

The majority of peacekeeping missions now have rule of law mandates. That in itself makes clear the Council's acceptance of the importance of the rule of law to the maintenance of peace and security. The Council should continue to provide strategic direction on the implementation of those mandates in order to ensure that they are coordinated and properly sequenced. Of course, issuing a mandate is not the end of the story. Rule of law mandates must be maintained and properly implemented to be effective.

As emphasized in the Secretary-General's report, the successful implementation of rule of law activities requires a coherent approach, particularly through increased field coordination, stronger policy development and strengthened support from various parts of the United Nations system. The importance of planning is reflected in the latest strategy for peacekeepers from the Department of Peacekeeping Operations and the Department of Field Support, which seeks to provide guidance in relation to the prioritization and sequencing of early peacebuilding tasks, many of which are related to the establishment of the rule of law.

The Council can make a vital contribution to the strategic implementation of the rule of law on the ground by ensuring that its mandates are adapted in response to changing circumstances. Working closely with other parts of the United Nations system, including the Peacebuilding Commission, the Council should ensure that rule of law mandates evolve over time to reflect current and specific needs across the justice sector, as well as to ensure that programmes appropriately address the needs of societies as they try to rebuild their institutions following conflict.

It is essential that the Council continue to play a leadership role in encouraging a culture of accountability. Accountability is a necessary guiding principle for States trying to develop robust national institutions that enjoy the confidence of the citizens they are established to protect. Australia's experience is that accountability and justice need to be led by national institutions. It is both the sovereign right and the responsibility of individual Member States to develop the administrative, judicial and security institutions necessary to underpin sustainable peace. It is the role of the international community to enhance the capacity of those national institutions, which are not only key to accountability but are also critical for

deterrence, and therefore to breaking cycles of violence and instability.

In our own region, Australia has worked in partnership with the Pacific Islands Forum to support the Solomon Islands Government's efforts to strengthen its rule of law institutions. The focus of that effort has been not only on the investigation and prosecution of those responsible for crimes committed during the 1998-2003 ethnic conflict, but on strengthening the entire judicial system, including by ensuring that accused persons have access to adequate legal representation. The work of the United Nations in supporting the investigation of serious crimes by the Prosecutor General of Timor-Leste is another example of a case where the international community enhanced accountability at the national level through support for national institutions. However, Australia also recognizes that while the responsibility for promoting accountability and the rule of law primarily lies with national Governments, the Council should also continue to encourage cooperation with established international accountability mechanisms, such as the International Criminal Court.

In conclusion, it is clear that weak justice and security institutions place already vulnerable people in post-conflict or fragile societies at greater risk. It is necessary for all of us working within the United Nations system to promote the development of robust judicial and rule of law institutions that effectively protect citizens in post-conflict societies. That protection underpins the stability and security necessary to allow societies to develop. It should continue to be core work for the Council.

The President: I now give the floor to the representative of Luxembourg.

Ms. Lucas (Luxembourg) (*spoke in French*): I would like to begin by congratulating the South African presidency of the Security Council for having organized this open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security.

I fully associate myself with the statement made on behalf of the European Union.

The efforts of the United Nations in the service of the rule of law are indispensable to international peace and security. During and after conflicts, it is important to assist countries to re-establish the rule of law by upholding the principle of accountability, providing assistance to victims, strengthening the normative framework of transitional justice and restoring citizens' confidence in their justice and security institutions.

The Secretary-General's October 2011 report (S/2011/634*) on the rule of law and transitional justice in conflict and post-conflict societies illustrates the wide range of activities undertaken by the United Nations and its Member States to promote the rule of law at the global level. We encourage the Secretary-General to continue his efforts to address rule of law initiatives in a comprehensive and multidimensional manner. In that regard, the high-level meeting of the General Assembly on the rule of law at the national and international levels, scheduled for 24 September, will be an important milestone.

The Security Council is undeniably playing an increasingly active role in promoting the rule of law. Since 2004, it has referred to the rule of law and transitional justice in more than 160 resolutions. More important, it has included support for the rule of law in the mandates of many special political and peacekeeping missions. The increasingly frequent participation of the High Commissioner for Human Rights in the meetings and deliberations of the Council serves as further testimony to this growing commitment. We can only encourage the Council to continue on this path and to take full advantage of the available tools, including special procedures.

In order to maintain the legitimacy and effectiveness of the Council's action in this field, it is all the more important for the Security Council itself to adhere to the fundamental principles of the rule of law in the conduct of its work. The expansion of the mandate of the Ombudsman under the Al-Qaeda sanctions regime pursuant to resolution 1989 (2011) and the growing use of the International Court of Justice to clarify the legal elements of international disputes are examples of measures that strengthen the legitimacy of actions undertaken by the Council. The Court's role in maintaining international peace and security is further strengthened when Member States recognize its compulsory jurisdiction, as Luxembourg has done since the Court's establishment.

Allow me also to highlight the importance that we attach to combating impunity, as well as to the International Criminal Court in that regard. The International Criminal Court is a classic example of the

interaction between the national and international levels with respect to the rule of law. The Court is complementary to national jurisdictions, and its permanent character allows it to help prevent the most serious crimes and to fulfil a critical role in conflict and post-conflict situations.

Luxembourg's commitment to the rule of law further manifests itself through our engagement with the United Nations Peacebuilding Commission (PBC). The experience of the PBC shows that lasting peace cannot be achieved without the implementation of the principles underlying the rule of law — universal access to justice and equality before the law, the maintenance and protection of the rights and freedoms of each individual, the primacy of law and the fight against corruption. It is therefore only right that the promotion and strengthening of the rule of law is a priority for each of the six country-specific configurations of the PBC.

Finally, I would like to highlight the support that for a number of years Luxembourg has provided to the activities of the International Center for Transitional Justice and the Department of Peacekeeping Operations Office of Rule of Law and Security Institutions, as well as our support for the proposed United Nations rule of law indicators, implemented jointly by the Department of Peacekeeping Operations and the Office of the United Nations High Commissioner for Human Rights.

It is by working together that we will succeed in strengthening the rule of law in the maintenance of international peace and security.

The President: I now give the floor to the representative of Mauritius.

Mr. Meetarbhan (Mauritius): My delegation wishes to focus exclusively on one aspect of this debate, although we support the view that the many issues raised by other speakers deserve attention and consideration.

The rule of law, whether at the national or international levels, requires enforcement and adequate machinery for the settlement of disputes. Those are essential components of the rule of law because a normative framework, however well constructed, is not sufficient. Unfortunately, that dimension of the rule of law is often overlooked at the international level. The rule of law at the international level can be really meaningful only if there is adequate machinery for the redress of grievances and the settlement of disputes.

Article 2 of the United Nations Charter provides that all Members shall settle their disputes by peaceful means. Article 33 spells out the means and ways of doing so. In the same spirit, in its Chapter XIV, the Charter provides for the establishment of the International Court of Justice. However, recourse to international adjudication for the settlement of disputes between States has historically required the consent of the States concerned. In recent times, a number of bilateral or multilateral agreements have provided for the prior commitment of States to submit to arbitration or adjudication. Mauritius welcomes that development.

However, recourse to judicial or quasi-judicial means or arbitration for determining disputes between States still requires, as a general rule, the consent of both parties. Giving consent is too often a matter of bargaining power between the parties, and the stronger party will often withhold consent because it can bear the cost of denying the weaker party access to a judicial determination of the law applying to the contentious issue. Parties of similar size or economic power therefore could be more likely to accept that a dispute between them be referred to adjudication or arbitration, but legal disputes between two parties of unequal strength are likely to remain unresolved.

That is not consistent with the application of the rule of law at the international level. Security requires an appropriate legal framework for the redress of grievances or the settlement of disputes so that some States are not frustrated in their attempts to find a peaceful settlement to their legal disputes. The international community has yet to set up adequate machinery for the settlement of legal disputes that is available to all States.

Only about one third of the United Nations membership has made declarations under Article 36 of the Statute of the International Court of Justice to accept the compulsory jurisdiction of the Court. Many States that have made such declarations have also stated reservations that limit the Court's jurisdiction or, in many cases, exclude it. Other States seek to vary or revoke their declaration when a dispute is submitted or is about to be submitted to the Court, to exclude the competence of the Court over the dispute concerned. Those examples illustrate the kind of difficulties a State may have in settling a claim under international

law. One State involved in a dispute may refuse to negotiate in good faith and seek to ensure that no international tribunal can determine the law applicable to the dispute.

Mauritius welcomes the decision of the President of the General Assembly to adopt, as the theme for the current session of the General Assembly, "The role of mediation in the settlement of disputes by peaceful means". Mauritius also welcomes the decision to convene a high-level meeting on the rule of law during the sixty-seventh session. However, my delegation wants to stress that the debate on the rule of law must apply at both the national and international levels. We therefore look forward to Member States discussing the rule of law as it applies to inter-State relations as part of the forthcoming debates.

My delegation is fully conscious of the fact that it might not be realistic to expect that States are ready to accept compulsory jurisdiction or that the international legal order would contain provisions on justiciability and judicial authority similar to what obtains in domestic legal orders. However, the United Nations has a duty, as part of the promotion and strengthening of the rule of law in the maintenance of international peace and security, to initiate a constructive dialogue on the whole issue of the settlement of legal disputes.

Initially, that debate could focus on the adoption of standards of conduct to which all States would subscribe. The philosophy underlying such standards could be that respect for the rule of law at the international level entails a commitment to good-faith negotiation, conciliation, mediation or other forms of non-judicial or quasi-judicial settlement of legal disputes. Alternatively, when a State does not accept any of those, the standards of conduct could provide that the State will submit to some form of international adjudication. No subject of international law should be left without any means or forum for the settlement of a dispute or for determination of the law.

In his 20 August 2010 report on strengthening and coordinating United Nations rule of law activities, the Secretary-General stated:

> "In 2008, I emphasized that in fulfilling its responsibilities, the United Nations must work towards the universal application at the international level of the Organization's definition of the principle of the rule of law." (*A/65/318, para. 9*)

In the same report he went on to say:

> "The principle that all individuals and entities, including States, are accountable to the law lies at the heart of the rule of law. Responsibility of all subjects of international law for fulfilling their obligations is thus essential to any concept of rule of law at the international level." (*ibid., para. 24*)

The credibility of the debate over the rule of law will be challenged if it is essentially limited to the rule of law within States and does not encompass the rule of law among States.

The President: I now give the floor to the representative of Norway.

Mr. Wetland (Norway): The Security Council has a particular role to play in promoting international law, both by observing it — by adhering to it — and by promoting it.

I would like to make a few brief points in this timely debate. First, I want to underline the need to fight impunity. Norway remains a strong supporter of efforts to curb impunity for international crimes. Over the past few decades, one of the most significant developments in international law, and in international relations in general, was the establishment of the international criminal tribunals. Of course, the most prominent of those is the International Criminal Court (ICC).

We are encouraged to note that the number of States parties to the Rome Statute continues to grow. More and more States consider the Court to be an important tool in maintaining international peace and justice. However, we remain concerned over reports, as well as judicial findings of the Court itself, that give clear evidence of failures to deliver mandatory cooperation with the ICC in the Darfur situation. We therefore continue to encourage the Security Council to assess and adopt measures that help to ensure compliance with resolution 1593 (2005), which referred the Darfur situation to the Court.

It goes without saying that international courts can deal with only a tiny fraction of all cases of serious crime. Efforts to fight impunity must therefore first and foremost be rooted at the national level. In an increasingly globalized world, the successful prosecution of a criminal case frequently requires the legal cooperation of several States. States should

establish and exercise jurisdiction over transnational criminal acts, so that those suspected of such crimes cannot evade legal proceedings.

It is contrary to the rule of law and creates a profound sense of injustice when a person suspected of a serious crime is perceived as being granted impunity outside the reach of a competent criminal prosecution. All States must abide by their obligation either to carry out a prosecution themselves or extradite the accused to another jurisdiction that is willing to do so. That must apply irrespective of personal background, family connections or wealth. There are still countries which uphold the best criminal justice systems that money can buy. They have a name, and they have shame.

Secondly, Norway welcomes the progress made in enhancing the transparency and fairness of listing and delisting procedures here in the Council. It is clear from the number of delisting requests that the Ombudsperson has received, and the number of persons and entities removed from the list, that there is a genuine need for the Ombudsperson's mandate. In our view, the procedures for listing and delisting should be kept under constant review, and the Council should remain open to further procedural improvements in the regime, such as the establishment of an independent review panel.

Thirdly, with respect to the promotion of women's rights in conflict and post-conflict situations, there can be no democracy without the participation of all citizens, and there can be no rule of law unless the law applies equally to all. The women involved in the Arab Spring have impressed us. Across the region, women have been present and vocal in the protest movements. Yet they are now facing exclusion from political processes and from constitution-building and legal reform. That is, of course, unacceptable.

The United Nations must uphold universal values and call for the inclusion of women in Government in the process of transition and constitution-making. Through the political mission in Libya, the United Nations is well placed to be proactive in implementing its responsibilities under the resolution 1325 (2000) agenda. Modern constitutions that do not provide for equal rights and opportunities for men and women are not modern constitutions.

The President: I now give the floor to the representative of Sri Lanka.

Mr. Kohona (Sri Lanka): My delegation welcomes the convening of this open debate at a time when there is a growing realization of the challenges and risks that rule-of-law deficits pose to international peace and security. The United Nations has a fundamental responsibility to maintain and strengthen international peace and security in conformity with the principles of justice and international law under the Charter.

At a time when the world is facing ever-increasing threats to international peace in the form of transnational organized crime, terrorism, piracy and climate degradation, it is fitting that the Council highlight the centrality of the rule of law. The strengthening of the rule of law is essential, not just to maintain peace, but also to enable sustained economic progress and the achievement of the Millennium Development Goals. Many organs and agencies of the United Nations must therefore play a role in contributing to the promotion and strengthening of the rule of law at the international level.

In recent times, we have seen that it is ordinary citizens' demands for the rule of law, accountability and transparency, when unmet, that have propelled momentous changes in societies. The basic principles of rule of law contribute to the strengthening and protection of the individual. Governments that have upheld justice and the rule of law as key components of their governance structure are therefore stronger in terms of stability and effectiveness.

The rule of law is not a modern, abstract concept; it is ingrained in the history of all nations. All cultures reflect it. The right to improve the rule of law should not be the right of a handful, nor should it be selectively implemented. Selective implementation would cause doubts to arise as to credibility.

Internationally, there have been longstanding efforts on the part of States to create an international community based on law. The linkages between the rule of law at the national and international levels are multifaceted. A key aspect of the rule of law at the international level is the codification of international law. In that regard, the multilateral treaty framework, developed mainly under the auspices of the United Nations, has played a seminal role. Today there is hardly an area of human activity that is not regulated by treaty law. The judgments of the International Court

of Justice and its advisory opinions have also contributed immensely.

Increasingly, regional approaches have also played an important role in addressing the growing problem of transnational organized crime and terrorism, which threaten international peace and security. That involves close cooperation and capacity-building at both the national and regional levels. However, long-term solutions to, inter alia, transnational organized crime, terrorism and piracy will need to focus on the delivery of basic services by justice and security institutions.

In addition, grievances based on violations of economic and social rights have the capacity to spark violent conflict that could spill over borders. The United Nations has a vital role in the promotion of dialogue on the realization of economic and social rights for all peoples.

The principle of sovereign equality enshrined in the United Nations Charter, which is intrinsic to the international rule of law, must be maintained as international rules are made and implemented. It is a clear principle that Member States must respect; it protects all States, especially the small and the weak. Equally important is the maintenance of the principle of non-interference in the internal affairs of Member States, especially in situations that do not pose a threat to international peace and security. Specific circumstances may call for involvement, which should be based on the agreement of all States. Unilateral and selective applications of international law principles must be avoided.

Sri Lanka has always advocated the settlement of internal and international disputes by peaceful means. Negotiations and other such peaceful means must be the first essential resort.

Mindful of the fact that conflict and post-conflict settings are complex environments with many competing priorities, we must recognize the tensions and difficulties that emerge in the process of endeavouring to balance national security interests and the maintenance of civil rights under trying local circumstances. Despite the onslaughts on the democratic fabric, countries with strong legal foundations have the resilience and the capacity to restore democratic institutions. Such countries can also create their own local mechanisms to consolidate peace, encourage reconciliation and, most importantly, strengthen democratic institutions. There is therefore a need to give countries such as these the much-needed space to begin that restorative process so as to set themselves on an even keel. In such contexts, the United Nations must provide leadership in capacity-building efforts to address the gaps by also factoring in local sensitivities.

Sri Lanka's willingness to engage with the United Nations to promote the rule of law based on constructive, fair, non-selective and objective assessments remains undiminished.

The President: I now give the floor to the representative of Bangladesh.

Mr. Momen (Bangladesh): I thank South Africa for guiding the work of the Security Council for the month of January 2012 and for having scheduled this open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. I convey my sincere thanks to the Secretary-General for his statement on this issue. Allow me also to express my appreciation to the other speakers who have taken the floor today.

Since the Security Council held its last open debate on the rule of law, in June 2010 (see S/PV.6347), there have been some important developments. We welcome the Secretary-General's latest report on the rule of law (S/2011/634*). A notable development is the establishment of the International Residual Mechanism for Criminal Tribunals. The forthcoming high-level event on the rule of law, to be held during the sixty-seventh session, in 2012, will be an opportunity for Member States to renew their commitment to the universal adherence to and implementation of the rule of law at both the national and international levels and to take stock of the progress made.

Some challenges lie ahead in promoting and strengthening the rule of law in the maintenance of international peace and security. One of them is to address new threats to peace and security, for example piracy, in the framework of the rule of law and justice. Apart from that, another critical issue is the need to support and strengthen the rule of law and transitional justice at the national level as part of mandates. It is also necessary that the global community increasingly become more mindful of adhering to the principle of not violating sovereign rights and to avoid selective application of the rule of law. Last year, the United

Nations observed the twenty-fifth anniversary of the right to development as a human right. We appeal the global community to help nations to achieve that objective.

My delegation believes that, in order to ensure a world order based on the rule of law, measures must be taken to ensure better implementation of international law, notably through technical assistance and national capacity-building. The United Nations should increase the efficiency of such assistance, expand it to broader areas of international law and focus on the specific needs of Member States. Measures should be taken to support institutional development for the promotion of the rule of law and encourage more States to become parties to international instruments.

The rule of law is a basic feature of the Constitution of Bangladesh, article 27 of which guarantees that all citizens are equal before the law and are entitled to equal protection under the law. Article 31 guarantees that to enjoy the protection of the law, and to be treated in accordance with the law, is the inalienable right of every citizen, wherever he or she may be, as well as of every other person for the time being within Bangladesh. In particular, no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with the law. All those provisions of the Constitution are effective for ensuring the rule of law in Bangladesh.

At the national level, Bangladesh is actively promoting the rule of law and justice in all spheres of life, in particular through administrative, judicial and electoral reforms. The Government of Bangladesh separated the judiciary from the executive branch of Government and strengthened its anti-corruption commission, which functions as an independent watchdog.

In addition, the Government also established a human rights commission, thereby ensuring that international standards of human rights and personal freedom are maintained in the country. Good news is that last year it co-organized multiple workshops throughout the country, with assistance from the United Nations Development Programme, on issues such as protecting people's economic, social and cultural rights, the rights of migrant workers, women's rights, violations against women et cetera. All of them were successful in creating mass awareness of those issues. In addition, Bangladesh is mindful of the importance of developing accountable and coherent law-enforcement institutions that operate within the framework of international legal norms.

In conclusion, may I add that in the area of peacekeeping and peacebuilding — the area of engagement — we should further strengthen the rule of law and system-wide coherence in all aspects.

The President: I now give the floor to the representative of Nepal.

Mr. Acharya (Nepal): My delegation wishes to express its sincere appreciation to you, Mr. President, for organizing this important open debate on the rule of law in the maintenance of international peace and security. This is an important step in reviewing the progress we have made so far and to chart out our shared road map for the future by upholding the hope and aspirations of millions of people yearning for the rule of law, justice, peace, security and development.

Over the years, the United Nations has made a steady and significant effort in establishing the rule of law in different parts of the world by ensuring accountability and reinforcing norms, building justice and security institutions and promoting gender equality. The engagement of the Security Council has also been important in the promotion and strengthening of the rule of law, with a view to maintaining international peace and security.

We firmly believe that ensuring the rule of law at the international level is as important as it is at the national level. The rule of law is an essential component for the smooth transition of post-conflict societies towards a just, peaceful and stable society. In post-conflict situations, it is also understandable that a transitional justice system plays an important role in ensuring justice to the victims of conflicts. At the same time, post-conflict societies may also require overall reforms in the legal framework and institutional structures of governance, including their functioning. Adhering to the international principles is important while making provisions for transitional justice and consolidating the system of the rule of law. However, a one-size-fits-all approach does not produce effective results, since the political, social, historical, economic and cultural contexts of different States have a great deal of implications for their legal systems, frameworks and institutions. In devising rule of law programmes, special attention needs to be given to

address the specific needs of women, children, minority and marginalized groups, refugees and displaced persons.

No external support mechanism can replace national ownership and national capacity in the nation-building process. In that context, all the efforts of the international community to promote the rule of law, including those of the United Nations system, should be focused towards building national ownership and national capacity in a sustained way. That will help national stakeholders to take ownership for the enactment and implementation of laws and for the strengthening of institutions as a part of broader reform efforts. We believe that this will alone ensure sustainable peace and progress around the world.

The rule of law agenda in post-conflict societies should be advanced in tandem with other issues. In particular, the root causes of conflict, such as exclusion, marginalization and deprivation in political, economic and social spheres, as well as poverty, must be dealt with in a comprehensive manner to make societies more inclusive, just, equitable and prosperous. The consolidation of security and the revitalization of the economy will reinforce the rule of law in the medium term by creating more stakes in the overall transformation of post-conflict societies.

Nepal approaches the rule of law agenda with determination as part of its historic transformation process, with a view to moving forward in the establishment of an inclusive, diverse yet unified, just and peaceful society. Nepal has an independent judiciary. It is also carrying out timely reform and consolidation activities to deliver justice effectively and efficiently. The use of a mobile court system has brought judges and prosecutors closer to the people, while the application of traditional mediation mechanisms has helped communities to solve their differences on their own.

As per a provision of the Comprehensive Peace Accord, signed in 2006, the bill for the establishment of a truth and reconciliation commission and a commission on disappearances have been prepared with wide consultations among various stakeholders, including civil society and human rights organizations. This matter is under discussion in our legislative parliament. We believe that justice is part of the peace process, and peace, justice and reconciliation have to be seen in an integrated and holistic manner.

The Secretary-General's report contained in document S/2011/634* reveals that the Security Council has made references to the rule of law and transitional justice in well over 160 resolutions since 2004. We need to remind ourselves that translating those resolutions into action is a continuous challenge. We call for an enhanced level of support from the international community, in a coordinated and coherent manner, so as to promote national ownership and national capacity, including the appropriate provision of an accountability framework in the field of the rule of law. That would not only contribute to establishing a just and stable society in countries receiving support, but also help to maintain international peace and security at large. In that regard, Nepal looks forward to contributing to the high-level meeting on this issue to be held in the General Assembly this year.

The President: I now give the floor to the representative of the Islamic Republic of Iran.

Mr. Al Habib (Islamic Republic of Iran): I would like to thank you, Mr. President, for convening this open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. We are meeting at a time when significant developments are unfolding in different parts of the world, including the Middle East, and many issues need to be addressed in a responsible manner within the context of the rule of law.

The root causes behind many conflicts are poverty, exclusion and marginalization, foreign intervention and military excursion and occupation. Unfortunately, in addressing the maintenance of international peace and security, the Security Council has in many instances failed to take into account those causes. The sobering reality is that the influence exercised by some members of the Council that have made the decisions of the Council has, if not exacerbated conflicts, contributed to their prolongation, with severe impacts on peace and stability. That has also hindered the way for the promotion of sustainable development and economic prosperity. Taking into account the time restraint, I would like to bring to the attention of the Council just one example to which the rule of law should have caused it to react promptly.

The example relates to the sad series of terrorist incidents targeting Iranian nuclear scientists, the most recent of which happened last Wednesday in Tehran. In

that incident, another prominent Iranian scientist, Mostafa Ahmadi Roshan, Deputy Director of Iran's Natanz nuclear facility, fell victim to a blind terrorist attack. Previously, assassination attempts had also targeted the prominent physicists Majid Shahriari and Fereydoun Abbasi Davani, who currently heads Iran's Atomic Energy Organization. Unfortunately, Majid Shahriari was martyred in that attack. In the same series of attacks, another prominent scientist, Professor Massoud Ali Mohammadi, was martyred in front of his house.

After such terrorist attacks, on behalf of my Government, our mission immediately sent letters to the Presidents of the Council and, through them, we informed the members of the Security Council of those attacks. The Secretariat distributed the letters as documents of the Council (see S/2010/634 and S/2012/27). Through those letters, we brought to the attention of the Council the fact that, on the basis of some evidence, those operations were masterminded by some foreign intelligence services, which we have already explained in those letters.

Officials and politicians of the Israeli regime do not deny the fact that such terrorist attacks have been carried out as part of efforts to disrupt Iran's peaceful nuclear programme. Those circles have spared no effort in depriving the Islamic Republic of Iran of its inalienable right to peaceful nuclear energy. They called for covert operations, ranging from assassinating Iranian nuclear scientists to launching a military strike on Iran, as well as sabotaging Iran's nuclear programme, to be conducted.

Here, I want to refer to Israeli officials, who have recently stepped up their war rhetoric against Iran. Rhetoric along the same lines is used by some politicians in the United States. They should also note the fact that United Nations bodies, including the Council, suffer from several deficiencies, such as the failure to keep the inspection of nuclear facilities secret, which is required by established laws, regulations and practices.

In this case, however, there is high suspicion that those terrorist circles used intelligence obtained from United Nations bodies, including the sanctions list of the Security Council and interviews carried out with our nuclear scientists by the International Atomic Energy Agency (IAEA), to identify and carry out their malicious acts. The late Ahmadi Roshan had recently met with IAEA inspectors — a fact that indicates that that United Nations Agency may have played a role in leaking information on Iran's nuclear facilities and scientists.

While the Council promptly reacts to terrorist incidents that happen around the world, it is odd to note that the Council kept silent about the terrorist attacks targeting Iranian scientists. Is that the way to advance the rule of law at the international level?

Now, the question remains whether resorting to all unlawful and coercive measures, even terrorist acts, to prevent developing nations from exercising their right to development, including the peaceful use of nuclear energy, is permissible within the internationally recognized rule of law. It goes without saying that the imposition of unilateral economic sanctions and organizing terrorist attacks against scientists and experts, particularly in the field of peaceful nuclear technologies, pose a serious threat to peace and security, as well as to sustainable development in developing countries. The least expectation of this body is that it should denounce such actions and take the necessary steps to prevent their recurrence.

We hope that the international community will take all measures necessary to uphold the rule of law, fairness and justice on the basis of respect for the lives of innocent scientists. Justice demands that the perpetrators of those crimes be prosecuted and brought to justice. That is extremely important for the credibility of the Security Council. If we want our debate on the rule of law to be meaningful and effective, we should have a fair, balanced, non-selective and comprehensive approach based on full respect for international law.

The President: I now give the floor to the representative of Solomon Islands.

Mr. Beck (Solomon Islands): Let me thank you, Mr. President, for having convened this open debate on the issue of the promotion and strengthening of the rule of law. By all accounts, this is the fifth time that the Council has conducted an open debate on the item — and rightly so as the primary role of the United Nations is to maintain international peace and security and to promote economic development and freedom to live in dignity. The occasion gives us the opportunity to take stock of how far we have come and what needs to be done in closing any gaps.

We have a come a long way. Notably, the Council has adopted various resolutions on establishing criminal tribunals, referring situations in certain countries to the International Criminal Court, sanctions regimes and resolutions managing the sanctions. In a couple of months' time, the Secretary-General will present his follow-up report on the rule of law to feed into the September high-level meeting. We look forward to that.

This debate is timely, as we are witnessing unilateral actions slowly creeping into the international environment, eroding and undermining our international multilateral system. The use of force is slowly replacing the peaceful settlement of disputes. Operating in a globalized and rules-based world, the threats that we face are interconnected. We must uphold the Charter and international and humanitarian law. Rules must not be used to pursue narrow political and economic interests.

In looking at today's new and evolving threats, we need to respond to them with a sense of urgency. On climate change, which is a threat multiplier for least developed countries (LDCs) and small island developing States, a lack of multilateral action until 2020 will see more conflicts emerge over land, water and food in the coming years.

We must now prepare for the consequences of our inaction and the costs that come with it. It is even more disappointing and of concern when Member States withdraw from their multilateral obligations at a time when collective security is most needed. My delegation hopes that the Secretary-General will address that in his forthcoming report.

As a post-conflict country, Solomon Islands is assisted regionally by its Pacific neighbours. That assistance is led by Australia, supported by New Zealand and all our small island developing Pacific neighbours, deploying police, legal, military and civilian support. The assistance over a period of years has allowed the economy of my country to grow and enabled Solomon Islands to invest in peacebuilding and nation-building initiatives. The Regional Assistance Mission is currently undergoing a transitional phase. Against that background, I would like to make the following brief points.

First, just to reiterate what other speakers have more or less alluded to in their respective statements, the primary actor of the international system is the State, of which the authority and legitimacy should be respected.

The second issue is support for LDCs implementing their national obligations under international conventions and treaties. When we speak of the rule of law domestically, we also refer to the integration of international law within the country.

Thirdly, strengthening the justice system and security institutions is critical only to a point if it is not accompanied with economic development, without which sustainability for peace becomes fragile. Resources must be committed in a multi-year format, thereby making support predictable and available.

Fourthly, there should be special support within the wider United Nations system for countries that are dealing with the underlying causes of conflict, as they move from reconciliation to State-building.

Fifthly, transitional justice in post-conflict countries should be managed in a flexible manner, so that it can adapt to the changing situations in countries.

Finally, the United Nations should have a stronger presence in the LDCs.

Let me conclude by stating that we must look for new ways to assist countries on the periphery of the international system and to integrate them more meaningfully into the global economy. That would ensure that there are no weak links in our collective effort to create a safer world for all our peoples.

The President: I now give the floor to the representative of Argentina.

Mr. Estreme (Argentina) (*spoke in Spanish*): At the outset, I would like to thank you, Mr. President, for organizing this open debate. My country attaches the utmost importance to strengthening the rule of law as an essential requirement for the achievement of peace and security at both the national and international levels, the latter of which occurs with the framework of the Security Council.

With regard to conflict and post-conflict situations, my country is of the view that, when establishing mandates, the Security Council must give due priority to the need to ensure the application of the rule of law in conflict and post-conflict societies, in particular by strengthening internal judicial machinery and police systems, which also contribute to the prevention of situations of that kind in the future. That

objective is directly linked to the role of the Security Council and has been increasingly expressed in the mandates approved by this organ.

With respect to situations of armed conflict, full respect for international humanitarian law is essential to ensuring the protection of civilians by parties to a conflict and by United Nations forces. Parties to an armed conflict are subject to the basic rule that civilians must be protected against the effects of armed conflict. With respect to peacekeeping operations, my country is convinced that the inclusion of activities for the protection of civilians in the mandates of United Nations missions is important in order to ensure in practice the effective provision of humanitarian assistance. It is also essential to hold those responsible for serious violations of human rights criminally accountable.

Fortunately, the international community has overcome the justice versus peace paradigm in post-conflict and conflict situations, in which political agreements put justice aside through de jure or de facto amnesties. The present paradigm is one in which peace and justice are not only compatible, but also complementary, objectives.

Combating impunity must be a commitment of all States Members of the United Nations. The international community is witnessing a notable evolution of international criminal justice. Such a process progressed with the establishment by the Council of the ad hoc Tribunals for Rwanda and the former Yugoslavia, and showed a clear recognition by the Security Council of the close relationship between peace and justice. The International Criminal Court (ICC) is one of the most important institutions of the multilateral system. In 1998, it was not expected that the Rome Statute would enter into force in such a short period, and much less that, in just under 10 years since its adoption, the Court would be playing such a central role in the fight against impunity.

Through resolution 1970 (2011), the Security Council referred a new situation to the Prosecutor of the Court. Argentina supports referrals by the Security Council, which involves a power recognized by the Rome Statute. However, there are two aspects regarding which I would like to express the serious concern of my country.

Paragraph 6 of resolution 1970 (2011) follows the questionable precedent set by the referral of the situation in Darfur to the ICC when it formulates an exception to the jurisdiction of the Court that is not provided for in the Rome Statute. That has an impact on the integrity of the criminal justice system of the Court. In addition, the resolution provides, in its paragraph 8, that

> "none of the expenses incurred in connection with the referral ... shall be borne by the United Nations [but] by the parties to the Rome Statute".

Such a provision is inconsistent with Article 115 of the Rome Statute and with Article 13 of the Relationship Agreement between the United Nations and the Court.

Argentina would also like to urge Member States to fulfil their obligations to cooperate with the International Criminal Court and to encourage continued cooperation of the Security Council with the Court, with the aim of putting an end to impunity. Similarly, my country calls on States that have not yet ratified the Rome Statute to ratify it as soon as possible.

The report of the Secretary-General (S/2011/634*) highlights the strengthening of the normative framework for the right to justice, truth and guarantees of non-recurrence. My country also stresses that evolution, as they deal with the pillars for combating impunity.

In that regard, it should be highlighted that, during the most recent session of the Human Rights Council, it was decided, at the insistence of my country, among others, to establish a Special Rapporteur of the United Nations for the promotion of truth, justice, reparation and the guarantee of non-recurrence in cases of serious violations of human rights and of serious violations of international humanitarian law. The establishment of that new special procedure constitutes an important contribution to the fight against impunity within the framework of the United Nations.

A debate within the United Nations on the rule of law cannot be conducted without a reference to the importance of the peaceful settlement of international disputes. The peaceful settlement of disputes is one of the pillars of the international community, and clearly the International Court of Justice plays a principal role in that regard. But the peaceful settlement of disputes also contemplates other methods, which are described in Article 36 of the Charter. In that respect, my country

underscores the need for the parties to a controversy to comply in good faith with the calls that the organs of the United Nations, including the General Assembly, make or have made with the aim of seeking a solution to the dispute.

Among the means available to the Organization, we would like to highlight the role played by the good offices that the organs of the United Nations may request the Secretary-General to undertake. For the successful fulfilment of a mission of good offices of the Secretary-General — and therefore for solving the given dispute — the goodwill and good faith of the parties to the dispute are also required.

In conclusion, I would like to stress that international peace and security are of key importance to the international community. That is a global interest that we must defend, and the Security Council is the international body with the primary responsibility for doing so. Legitimacy, democracy and justice are values to guide the action by the Security Council in conflict and post-conflict situations, in order to build and consolidate peace.

The President: I now give the floor to the representative of Denmark.

Mr. Staur (Denmark): Let me start by expressing Denmark's appreciation to South Africa for organizing today's important debate in the Security Council. We also wish to thank the Secretary-General for his commitment to strengthening United Nations support for the rule of law. Denmark agrees that we now have before us historic opportunities for enhancing justice and the rule of law.

Denmark aligns itself with the statement made by the observer of the European Union.

We welcome the convening of a high-level meeting of the General Assembly on the topic of the rule of law at the national and international levels during the high-level segment of its sixty-seventh session. As a staunch supporter of an international system based on international law, Denmark remains committed to actively participating in sustaining and further coordinating efforts aimed at promoting the rule of law.

The promotion of the rule of law and universal human rights constitute fundamental prerequisites for achieving sustainable peace. We are therefore pleased that in recent years the Security Council has been playing an increasingly important role in the promotion of justice and the rule of law.

In recent years, the international community has been confronted with an increasing number of intra-State conflicts that have consequences not only for national, but also for regional and international peace and security. This development is of great concern and should be addressed by focusing even more on the important linkages between peace and security, development and justice at the international as well as at the national and regional levels.

As the Secretary-General said, there is a need for enhanced political will and stronger efforts to build national ownership when it comes to the rule of law and transitional justice in conflict and post-conflict societies. This also requires increased support for multilateral efforts to promote the rule of law, as well as enhanced donor coordination.

The promotion of the rule of law, human rights, access to justice and security are key strategic objectives of Danish development cooperation, including with States in fragile situations and in transition. Genocide, crimes against humanity and war crimes often take place in chaotic situations in fragile and conflict-affected countries with weak institutions. Denmark is a strong supporter of transitional justice programmes that can help heal the wounds, initiate truth-seeking processes, and establish judicial accountability mechanisms and reparations programmes for the victims. Rebuilding trust in the justice systems is crucial to breaking cycles of violence and paving the way for stability and development.

Repression and large-scale human rights violations pose a threat to international peace and security and concern us all. Human rights violations are the root cause of many conflicts — not least intra-State conflicts — and must therefore be at the core of the Council's deliberations and its responses. To Denmark, it is clear that in order to achieve lasting peace agreements respect for and protection of human rights need to be addressed. Ensuring respect for and protection of international human rights norms and standards should be a central element of all support to justice systems. The international community must work towards strengthening national ownership as well as the capacities of Governments, which bear the responsibility to protect their populations and ensure respect for their human rights.

Denmark is an unwavering supporter of the International Criminal Court (ICC), and we are pleased to see the Court increasingly fulfilling its important role in fighting impunity for the crimes of genocide, crimes against humanity and war crimes in conflict and post-conflict situations. We take this opportunity to encourage all States not yet parties to the Rome Statute to ratify or accede to it, and further call on all States parties to adhere to their obligations to fully cooperate with the Court.

However, not all instances of the most serious crimes should be dealt with at the international level. A fundamental principle of the Rome statute is that of complementarity. It underscores the primary responsibility of national judicial systems to prosecute perpetrators of atrocity crimes. To the extent that States themselves are willing and able genuinely to prosecute the most serious international crimes, we view that as the better option.

National prosecutions serve to enhance local ownership and understanding of the proceedings — elements that are crucial if such processes are to lead to true reconciliation and justice. Within the Assembly of States Parties to the ICC, Denmark, together with South Africa, has helped facilitate the complementarity agenda. The aim is to fight impunity more effectively by having international justice and rule of law actors joining efforts to support strengthening judicial, prosecutorial and investigative capacities in domestic jurisdictions.

Justice sector capacity-building related to crimes within the ICC's jurisdiction is a win-win situation. States improve their ability to process the most serious crimes, while at the same time they increase the general capacity of their justice sector institutions.

To conclude, Denmark trusts and expects the Council to do its part in strengthening justice and the rule of law, and we will continue to give full support to the work of the Council in this respect.

The President: I give the floor to the representative of Armenia.

Mr. Nazarian (Armenia): I join previous speakers in thanking you, Sir, for having convened this debate, which serves as an engine for generating complex and open dialogue to analyse and examine the conceptual issue of the rule of law. We would also like to join previous speakers in thanking Secretary-General Ban Ki-moon for his active involvement in addressing this important subject and for his follow-up report (S/2011/634*).

In recent years, the international community has stepped up its efforts to address the rule of law in conflict and post-conflict situations. Following the commitment to the rule of law made in the Outcome Document of the 2005 World Summit (General Assembly resolution 60/1), the rule of law was placed high on the United Nations and other international agendas. A consensus emerged that the rule of law should be promoted at both the national and the international levels and based on the United Nations Charter, the norms of international law and the principles of good governance.

In its presidential statement of June 2010, the Council recognized that

> "respect for international humanitarian law is an essential component of the rule of law in conflict situations and reaffirm[ed] its conviction that the protection of the civilian population in armed conflict should be an important aspect of any comprehensive strategy to resolve conflict" (*S/PRST/2010/11*).

We share the views expressed by Council members and other speakers who have called for a more systematic approach to protection.

We also trust that increased efforts to fight impunity at the national and international levels are essential. It is commendable that the Council continues to focus on the responsibility of States to end impunity and to thoroughly investigate and prosecute persons responsible for genocide, crimes against humanity or other grave violations of international humanitarian law in order to avoid their recurrence and to seek justice and peace.

Armenia attaches the utmost importance to the promotion of justice and the rule of law, as these values are indispensable to the maintenance of international and regional security and the protection of human rights. Moreover, systematic breaches of the rule of law contribute to violations of basic human rights and fundamental freedoms, including peoples' right to self-determination, which are among the major and most immediate causes of regional conflicts.

The notion of the rule of law represents a concept that is diametrically opposed to rule by force or the use

of force. This principle stipulates a framework for peaceful conflict resolution and democratic governance. Strengthening the rule of law based on justice and security therefore requires a deeper commitment and a broader vision of the future. Adherence to the principles of the non-use or threat of use of force, clearly and unequivocally declared by the parties concerned in conflict and post-conflict settings, is another crucial factor for creating an environment conducive to building mutual trust and achieving peace, justice and security.

The rule of law is a concept at the very heart of the stated mission of the United Nations and other international organizations. It is a well-known fact that, in an increasing number of operations on the ground, the United Nations is calling on the services of relevant regional and subregional organizations, since in certain areas and in some cases these international actors are able to provide expertise and a better understanding of local particularities to complement that of the United Nations.

While the Security Council has the primary responsibility for the maintenance of peace, relevant international organizations, including the Bretton Woods institutions, other multilateral actors and civil society, can play a significant role and contribute in a coordinated manner to the development and strengthening of the rule of law and the maintenance of international peace and security.

The President: I give the floor to the representative of Kyrgyzstan.

Mr. Kydyrov (Kyrgyzstan): Let me at the outset sincerely thank you, Sir, for convening this very important open debate on a topic that reflects the Security Council's special responsibility for maintaining international peace and security in conformity with the principles of United Nations Charter. I would also like to extend my gratitude to the Secretary-General for his comprehensive statement.

Kyrgyzstan welcomes the recent report of the Secretary-General on the subject of the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634*). Kyrgyzstan fully supports the Secretary-General's commitment to continuing to promote initiatives aimed at strengthening the rule of law, increasing the capacity-building of justice and security institutions around the world, and ensuring the prompt and holistic response of the United Nations to national requests to assist with legislative reform processes.

The United Nations Charter clearly indicates that any acts occurring in the world that might lead to a breach of the peace should be settled by peaceful means and in conformity with the principles of justice and international law. In that regard, the role of the International Court of Justice as the principal judicial organ of the United Nations is significant. The Court should be one of the key mechanisms for the peaceful settlement of international disputes. We therefore commend the Court for its contribution to that end, as well as its valuable contribution to the evolution of international law.

Kyrgyzstan recognizes the importance of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law and fully supports the activities of the Rule of Law Coordination and Resource Group, which is responsible for the overall coordination and coherence of the rule of law within the United Nations. We also support the important work done by the Office of the United Nations High Commissioner for Human Rights, particularly in capacity-building activities to strengthen national rule of law systems and respect for human rights around the world. As a member and as the Vice-Chair of the Human Rights Council, my country actively stands for the necessity to respect human rights in all situations, including conflict and post-conflict situations.

I would like to stress the importance that Kyrgyzstan attaches to justice and the rule of law in rebuilding post-conflict societies as part of a comprehensive approach to peacebuilding strategies aimed at achieving reconciliation, stability and lasting peace. As members are well aware, in 2010, Kyrgyzstan overcame conflict and is now at the stage of post-conflict reconstruction and peacebuilding. We strongly believe that transitional justice and restoring the capacities and the legitimacy of national institutions should continue to be at the very heart of United Nations rule of law efforts.

Since 2010, Kyrgyzstan has made significant progress. Despite all the difficulties, my country has adopted a new Constitution, held two successful presidential and parliamentary elections and carried out reforms aimed at the improvement of the judicial system, at increasing the capacity of law enforcement agencies, and at empowering women and youth, as well as ensuring their active involvement in the decision-making process. Today, Kyrgyzstan is deeply committed to enduring legal principles such as due process, equal protection under the law, judicial

independence and justice for all. Lasting peace and the reconciliation of society in post-conflict areas is the top priority on the agenda of the Government of Kyrgyzstan. For that reason, the special concept of ethnic development in the consolidation of society was adopted by the Assembly of the Peoples of Kyrgyzstan in 2011, and is now being successfully implemented throughout the country.

In conclusion, it is incumbent upon the Security Council to pay due regard to the value of the rule of law as an end as well as a means. Our quest for justice and the rule of law should not be limited to the domestic sphere. The same standards should apply at the international level as well. It is our collective responsibility to manifest a just international order, and thus to empower all peoples on our planet to live in peace and harmony. At the same time, however, there is a fragile balance between the need to respect human rights and the rule of law in States, and interference in the internal affairs of States, which must be considered and taken into account.

Mr. Alemu (Ethiopia): We are very pleased that this important topic — the promotion and strengthening of the rule of law in the maintenance of international peace and security — is being discussed by the Council during the South African presidency. I would therefore like to express our appreciation to you, Mr. President, for having taken this initiative. We are also appreciative of the efforts by the Secretary-General to promote justice and the rule of law.

Few regions of the world have been so deeply affected and, without too much hyperbole, so devastated by the adverse consequences of a lack of compliance with the rule of law as the Horn of Africa. It is therefore axiomatic for us that strengthening the rule of law would have a hugely transformative impact on the state of peace and security in our region. There is little doubt that an improvement of the security situation and the prevalence of peace would be a great boon to the aspirations of the region's peoples for economic revival, creating hope in a region where hope has been a distant dream for too long. For many, that might also mean achieving the Millennium Development Goals.

But the task of ensuring the supremacy of the rule of law, both in the domestic sphere and in relations among States, has not been easy for our region. It is also self-evident, whatever might be its theoretical validity, from the experience of the Horn of Africa, that the lack of compliance with the rule of law in the domestic domain is invariably associated with flagrant disregard for, and lack of compliance with, rules of international law governing inter-state relations.

Strengthening and promoting the rule of law provides a firm foundation for ensuring justice, and thus for maintaining domestic peace and stability in nations. A host of issues arise in that regard, with respect to capacity-building and the lack of robust institutions for the administration of justice when one focuses on the issue of the lack of compliance with the rule of law. Respect for the rule of law and the capacity to make rules that are complied with are particularly vital in order to ensure that societies in transition from war to peace succeed in that exercise.

However, it appears obvious to us that, when this topic is discussed by the Security Council, it is absolutely critical to pay sufficient attention to the matter of the lack of compliance with the rule of law that manifests itself in flagrant violations of the principles of international law that governing inter-State relations. A quick glance at the recent history of the Horn of Africa makes that abundantly clear, as does what is taking place there as we speak.

Beyond a doubt, if there were to be some progress in our region in that respect — for which the Security Council is in a position to make a great difference — the Intergovernmental Authority on Development region would make a huge leap forward in ensuring peace and security in the region. The positive implications of that for international peace and security are unquestionable.

Mr. Sorreta (Philippines): The Philippines wishes to express its appreciation and full support for your efforts, Mr. President, in bringing attention and much-needed focus to an issue of vital importance to us all.

The rule of law at the national and international levels is the bedrock upon which nations build stable and flourishing societies and foster strong relations. The rule of law emphasizes the protection of rights and underscores compliance with obligations. Those are crucial in order to exact responsible behaviour both from individuals and from States. Those are vital in order for justice to be served at the national and international levels.

The rule of law is essential as an instrument and object of policy as we seek to rebuild and strengthen societies in, or emerging from, conflict. The rule of law and justice are cornerstones in President Benigno Aquino's programme of good governance. The

Philippines development plan for the period 2011 to 2016 highlights that, stating that justice is no less important a public good and that the framework of the rule of law is the foundation of our democratic society. The strict implementation of the rule of law indicates our Government's seriousness in carrying out its responsibilities and obligations in a democratic environment.

Beyond its borders, the Philippines continues to do its part in further strengthening the rule of law and the institutions and processes needed to uphold it in post-conflict and conflict-affected areas around the world. The Philippines actively participates in the efforts of the United Nations to bring about peace and security to countries torn by conflict and instability. Close to 1,000 Filipinos — men and women alike — serve as peacekeepers on the ground in eight United Nations missions. Additional training and capacity-building — based on solid rule of law principles and delivery of justice — will further enable peacekeepers and allow peacekeeping operations to accomplish much more. For our part, we hosted the train-the-trainer course in the United Nations police standardized training curriculum on preventing and investigating sexual and gender-based crimes, which was held in Manila in June last year. This was the first such training to be conducted in the Asian region.

There is a need for greater international cooperation in delivering predictable, accountable and effective rule of law assistance where it is most needed. The continued support of donor countries remains crucial, particularly for rule of law programming and for follow-through efforts in implementing reforms in conflict and post-conflict societies.

The conclusions and recommendations contained in the report entitled "New voices: national perspectives on rule of law assistance", issued by the Rule of Law Coordination and Resource Group, are worthy of our interest. We draw particular attention to the need to draw on and empower national stakeholders and the need for greater coordination and coherence in rule of law assistance in the rational implementation of reform measures. It is vital that we engage each other within the United Nations on rule of law issues. The high-level meeting on rule of law at the national and international levels, to be held during the high-level segment of the sixty-seventh session of the General Assembly, will be a very valuable venue to enrich our discussions on rule of law at both levels.

Conscious of its obligations and responsibilities as a democracy — and keeping in mind the valuable lessons we learned in fighting colonial rule and an oppressive dictatorship — last year the Philippines ratified the Rome Statute of the International Criminal Court (ICC). The election of Ms. Miriam Defensor Santiago to the International Criminal Court demonstrates the international community's confidence in our commitment and ability to contribute to our collective efforts against impunity.

The ICC and other international judicial bodies play a vital role in preventing conflicts and abuses and, just as importantly, in helping to resolve disputes. We must make full use of our resources and institutions to ensure that justice and the rule of law prevail. Time and again, conflicts — ideological, political, military and territorial — have arisen when the rule of law is weak. We need to continue to work together to rebuild societies ravaged by conflicts and to ensure that democratic institutions and processes are established or strengthened. But we also need to continue to work as one to prevent the escalation of conflicts by respecting the rule of law. On that point, I would like to join others who have emphasized that the rule of law has a central role to play in the settlement of disputes, be it in the method of the settlement or in the very substance of the reasons behind the dispute.

Thirty years ago, on 15 November 1982, we all reiterated our high regard for law and justice when faced with potential or actual disputes when the General Assembly adopted the Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10). The Manila Declaration reinforces the norm that international disputes shall be settled in conformity with the principles of justice and international law. This year, we will mark the thirtieth anniversary of the Manila Declaration, and the Philippines will be commemorating this landmark throughout 2012.

Justice and the rule of law are both objectives and instruments that we rightly must harness to achieve our shared goals of a world of greater peace, progress and prosperity.

The President: There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5.05 p.m.